

Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of)	
)	
Numbering Resource Optimization)	CC Docket No. 99-200
)	
Implementation of the Local Competition)	CC Docket No. 96-98
Provisions of the Telecommunications Act of 1996)	
)	
Telephone Number Portability)	CC Docket No. 95-116
)	

SUPPLEMENT TO REQUEST FOR WAIVER

The RSA Carriers^{1/}, by their attorney, hereby supplement their November 22, 2002 petition filed with the Federal Communications Commission (“FCC” or “Commission”) for a waiver of the November 24, 2002 deadline for mandatory participation in Thousands Block Number Pooling (“TBNP”).

As the RSA Carriers established in their Request for Waiver, the RSA Carriers had taken steps to become ready for TBNP by the November 24, 2002 deadline. The RSA Carriers each filed the requisite carrier forecast and donation forms for all NPA-NXX codes that had a pool start date prior to November 24, 2002.^{2/} In addition, the RSA Carriers had also taken steps, through the implementation of software upgrades and/or changes in their switch translations, to accommodate TBNP and properly route calls that originate on their systems but are destined for donated thousands blocks. Moreover, undersigned counsel on behalf of the RSA Carriers, through a series of telephone conference calls with numerous representatives of NeuStar, Inc. had attempted to determine the “nuts and bolts” procedures to be followed to enable the RSA Carriers to become registered users of the Number Portability Administration Center/Service Management System (“NPAC/SMS”).

^{1/} Attachment 1 hereto identifies each carrier and their respective CMRS licenses by call sign and licensed service area.

^{2/} As of November 24, 2002, only HickoryTech and VA-10 were actually donating thousands blocks. The remaining RSA Carriers did not have blocks to donate at that time.

The RSA Carriers did not require regular or even routine access to the NPAC/SMS. Instead, their only need was to have their NPA-NXX codes “opened for porting” in the NPAC/SMS and their local routing numbers (“LRN”) associated with the retained blocks. During the above-mentioned conference calls, NeuStar had advised the undersigned counsel that the regular methods of accessing the NPAC/SMS were geared toward carriers with an ongoing need to do so. NeuStar suggested that the most effective way for these smaller carriers to accomplish what would essentially be a “one-time” pooling of numbers, would be utilization of the NPAC/SMS Help Desk, noting that payment of the associated “per transaction” Help Desk fee would be far more cost effective. NeuStar also advised that completion of a series of specifically-identified forms was all that was required to enable that process to occur.

Upon submitting the requisite forms, the RSA Carriers were advised that they would be required to execute a User Agreement, which in turn was subject to the terms and conditions of a Master Services Agreement between NeuStar and its “governing” LLC. NeuStar advised that the LLC was comprised of multiple carriers. The terms and conditions of the NeuStar agreements were at odds with the procedures and pricing information which had been discussed with the undersigned. The agreement which the RSA Carriers were being required to sign, included a substantially different fee structure, at much higher rates, and included provisions whereby those terms could be changed without the RSA Carriers’ consent. Additionally, the “Help Desk only” option was not included in the contract. NeuStar had advised the undersigned that these agreements were not open to negotiation, that no terms or conditions could be altered and that there was no way to donate thousands blocks without executing that specific agreement. The financial terms set forth in the lowest-cost option in the actual NeuStar agreements, were more than 250 times *greater* than those from the “Help Desk only” procedures and fees which had been discussed. NeuStar asserted that it had to charge the same fees to the RSA Carriers as it charged to carriers that access the NPAC/SMS on a continuous basis, in order to maintain “neutrality” between carriers.

Through negotiations with NeuStar and its governing LLC, the parties were able to reach a resolution of these issues which include, *inter alia*, NeuStar’s offering of the Help Desk only solution which had been originally discussed with the undersigned counsel. Appended hereto as Attachment 2 are copies of the Memorandum of Understanding executed between NeuStar’s governing LLC, its counsel and the undersigned counsel. Also appended hereto is an October 2, 2003 letter from counsel for the LLC to NeuStar seeking NeuStar’s acknowledgment of the MOU and NeuStar’s intention to implement the actions recited therein, as well as NeuStar’s October 3, 2003 acknowledgment. Finally, appended hereto is an October 6, 2003 letter from the LLC’s counsel, providing his legal opinion that the LLC would be estopped from, at any future date, asserting that clients of the undersigned had not relied upon the terms set forth in the MOU in agreeing to execute the NeuStar User Agreements.

With this settlement, the RSA Carriers have now executed the requisite User Agreements and are in a position to comply with the pooling rules. Accordingly, as of this point in time, the RSA Carriers no longer require an ongoing waiver and hereby amend their previous request to limit the waiver of the pooling rules only for the period of time between the November 24, 2002 original

pooling deadline and the time which was required to execute and implement the MOU. Accordingly, no ongoing waivers are required by the RSA Carriers as of the date of this filing.

Respectfully submitted,

The RSA Carriers

Dated: December 4, 2003

By /S/ Michael K. Kurtis
Michael K. Kurtis
Their Attorney

Kurtis & Associates, P.C.
1000 Potomac Street, N.W.
Suite 200
Washington, D.C. 20007
(202) 328-4500
(202) 328-1231 (facsimile)

Cal-One Cellular, L.P. (“Cal-One”)

California 1 - Del Norte RSA Station KNKN233 (CMA336B).

El Dorado Cellular, A California Corporation d/b/a Mountain Cellular (“Mountain Cellular”)

California RSA 11 – El Dorado Station KNKN220 (CMA346B).

Missouri RSA No. 7 Limited Partnership d/b/a Mid-Missouri Cellular (“MMC”)

Missouri 7 - Sedalia RSA Station KNKN595 (CMA510B)

Kansas City, MO/KS MSA Station KNKR207 (CMA024B-2)

Public Service Cellular, Inc. (“Public Service”)

Cellular

Columbus, GA/AL MSA Station KNKA415 (CMA153B)

Georgia 6 – Spalding RSA Station KNKN872 (CMA376B-1)

Georgia 6 – Spalding RSA Station KNKN913 (CMA376B-2)

Georgia 6 – Spalding RSA Station KNKN883 (CMA376B-3)

Alabama 5 – Cleburne RSA Station KNKN687 (CMA311B-3)

Alabama 8 – Lee Station KNKN932 (CMA314B-2)

Georgia 5 – Haralson Station KNKN934 (CMA375B-2)

Georgia 9 – Marion RSA Station KNKN976 (CMA379B-1)

Broadband Personal Communications Service

Anderson, SC BTA Station KNLG210 (BTA016F)

Anniston, AL BTA Station KNLH422 (BTA017D)

Columbus, GA BTA Station KNLH421 (BTA092F)

Minnesota Southern Wireless Company d/b/a HickoryTech Wireless

Broadband Personal Communications Service

Minneapolis-St. Paul, MN/WI MSA Station KNKR320 (CMA015A-2)

Mankato-Fairmont, MN BTA Station KNLG874 (BTA277E)

Rochester-Austin-Albert Lea, MN BTA Station KNLG880 (BTA378E)

Minnesota 10 – Le Sueur RSA Station KNKN572 (CMA491A)*

NOTE: Virginia 10 RSA Limited Partnership [Virginia 10 – Frederick RSA Station KNKN895 (CMA690B-2)] ***was originally one of the RSA Carriers. However, during the pendency of this waiver request, the Commission granted its consent to the assignment of the subject Virginia RSA 10 license to Verizon Wireless. The consummation of that assignment mooted the waiver request for that company.***

*Licensed to affiliate

Memorandum of Understanding

September 26, 2003

This Memorandum of Understanding ("MOU") sets forth the understanding between North American Portability Management LLC ("NAPM LLC") and its counsel, Berenbaum, Weinshienk and Eason, P.C.; and Kurtis and Associates, P.C. ("K&A"), concerning the following resolutions to issues arising from and pertaining to the wireless clients of K&A ("K&A Clients").

1. NeuStar will adjust its website posting and change its Help Desk methods and procedures limiting the Help Desk Number Portability Administration Center (NPAC) access option solely for purposes of donating thousands blocks to a telephone number pool and to completing intra-Service Provider porting for the purposes of donating thousands blocks to a telephone number pool.

NeuStar will post on its website the following expression of intention:

"Users who are not porting telephone numbers may access the NPAC via the Help Desk on a limited basis for the purposes of donating thousands blocks to a telephone number pool and completing associated intra-service provider porting (ISP) of telephone numbers within the donated blocks. NeuStar intends to continue to make this NPAC access via the Help Desk option available until such time as telephone number portability is required for all local service providers or unless and until such time as NeuStar should implement a similar NPAC access option for Users who are not porting telephone numbers, allowing for block donation and associated ISP activity without direct or dial-up NPAC connection."

2. NeuStar will post on its website the following expression of intention:

"The User Agreement and each of the several Agreements for Number Portability Administration Center/Service Management System (Master Contracts) expressly recognize that they are subject to certain federal and state statutes and to certain rules and regulations promulgated thereunder, as well as rules, regulations, orders, opinions, decisions and possible approval of the FCC and other regulatory bodies, including state public utilities commissions ("State Regulatory Authorities") to the extent of their jurisdiction over the Users, the Contractor, the Customer or the NPAC/SMS. Specifically, with respect to the identification and allocation of charges for Services as specified in the User Agreement and pursuant to the Master Contracts, Contractor intends such identification and allocation of charges to be in

accordance with the methods and requirements of the FCC and applicable State Regulatory Authorities, and, accordingly, execution by a User of the User Agreement is not intended to constitute a waiver or release of such User's pre-existing rights to seek review or redress before the FCC or applicable State Regulatory Authorities with respect to the identification and allocation of charges for Services."

3. NeuStar will post on its website the following:

"User Agreement Section 10.1(b), specifically that portion reading, 'or was porting numbers and is no longer porting numbers in the Service Area,' includes the meaning that any User who has been required to be portability capable or to pool telephone numbers, by an order of either the Federal Communications Commission or an appropriate state regulatory agency, and that subsequently becomes exempt from such order and who, further, elects to exercise such exemption to refrain from porting or pooling telephone numbers, may terminate the User Agreement without penalty."

4. NeuStar will post on its website the following clarification and statement of intention:

"In accordance with Section 25.1 of the Master Contracts and as stated in Section Article 15 of the User Agreements, both the Master Contracts and the User Agreement are subject to certain federal and state statutes and to certain rules and regulations promulgated thereunder, as well as rules, regulations, orders, opinions, decisions and possible approval of the FCC and other regulatory bodies, including State Regulatory Authorities to the extent of their jurisdiction over the Users, the Contractor, the Customer or the NPAC/SMS. Accordingly, execution by a User of the User Agreement is not intended to constitute a waiver or release of such User's pre-existing rights to seek review or redress before the FCC or applicable State Regulatory Authorities with respect to the Master Contracts or the User Agreement."

5. A transmittal by counsel of the final resolutions adopted in 1 through 4 above will convey these resolutions to K&A and shall note that the agreement to these four resolutions is reached with the understanding that they are integral to the needs of the K&A Clients. It is the intention of that transmittal that the parties be estopped from asserting that execution of the User Agreements was not dependent upon an understanding and acknowledgment of the foregoing.
6. Those K&A Clients that have filed FCC waivers of the pooling deadlines based upon issues with NeuStar will advise the FCC of this resolution of

issues and that, except with respect to the period of time from when the waiver was filed to the adoption of this agreement, the waiver requests have become moot. In addition, so long as NeuStar does not vary materially from the provisions set forth herein, the K&A Clients will not seek further redress on these issues from the FCC.


7. This MOU may be signed in any number of counterparts each of which shall be considered an original and, when signed by all parties, collectively shall constitute one in the same document.

Rick Theiss
North American Portability Management, LLC

Date _____

Berenbaum, Weinshienk & Eason, P.C.

Date _____



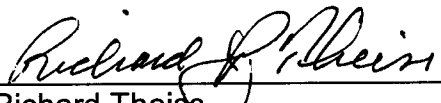
Michael Kurtis
Kurtis & Associates, P.C.

Date 10-6-03

FILE: KURTIS – MOU 09-23-03b.doc

issues and that, except with respect to the period of time from when the waiver was filed to the adoption of this agreement, the waiver requests have become moot. In addition, so long as NeuStar does not vary materially from the provisions set forth herein, the K&A Clients will not seek further redress on these issues from the FCC.

7. This MOU may be signed in any number of counterparts each of which shall be considered an original and, when signed by all parties, collectively shall constitute one in the same document.



Richard Theiss
North American Portability Management, LLC

Date 10-14-03

Berenbaum, Weinshienk & Eason, P.C.

Date _____

Michael Kurtis
Kurtis & Associates, P.C.

Date _____

FILE: KURTIS – MOU 09-23-03c.doc

issues and that, except with respect to the period of time from when the waiver was filed to the adoption of this agreement, the waiver requests have become moot. In addition, so long as NeuStar does not vary materially from the provisions set forth herein, the K&A Clients will not seek further redress on these issues from the FCC.

7. This MOU may be signed in any number of counterparts each of which shall be considered an original and, when signed by all parties, collectively shall constitute one in the same document.

Rick Theiss
North American Portability Management, LLC

Date _____



Betenbaum, Weirshienk & Eason, P.C.

Date 10/6/03

Michael Kurtis
Kurtis & Associates, P.C.

Date _____

FILE: KURTIS - MOU 09-23-03b.doc

Memorandum of Understanding



Berenbaum, Weinshienk & Eason, P.C. *Attorneys at Law*

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Dan A. Sciullo
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October 2, 2003

Via E-Mail Transmission and United States Mail

Martin K. Lowen, Esq.
Vice President and General Counsel
NeuStar, Inc.
46000 Center Oak Plaza
Sterling, VA 20166

Re: Notice of Resolution

Martin:

I have been directed on behalf of the North American Portability Management LLC ("NAPM LLC") and as counsel for NAPM to advise NeuStar that NAPM LLC has entered into a Memorandum of Understanding (the "MOU") with Michael Kurtis and Kurtis and Associates, P.C. ("K&A"), as counsel for certain wireless clients of K&A ("K&A Clients"), concerning the resolution of issues arising from and pertaining to the K&A Clients as prospective Users. A copy of the MOU is attached hereto for your information, with the approval and consent of Mr. Kurtis on behalf those prospective Users.

Please confirm to me, as counsel for and on behalf of NAPM LLC, that NeuStar understands and acknowledges the recitation of the intentions of NeuStar set forth in the MOU and that NeuStar intends to implement those actions recited therein. We appreciate your response.

Sincerely,

Berenbaum, Weinshienk & Eason, P.C.

By: Dan A. Sciullo

Attachment

Cc: Richard Theiss, co-chair
Pamela Connell, co-chair



Berenbaum, Weinshienk & Eason, P.C. *Attorneys at Law*

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Dan A. Sciullo
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October 6, 2003

Mr. Michael Kurtis
1000 Potomac St., N.W., Suite 200
Washington, DC 20007

Re: User Agreement Clarifications

Dear Michael:

This law firm represents the North American Portability Management LLC ("NAPM LLC"). NAPM LLC is a party to seven separate agreements with NeuStar, Inc. each of which is titled Agreement for Number Portability Administration Center/ Service Management System and each of which applies with respect to a separate former Regional Bell Operating Company region of the United States. Each of these agreements, as amended to date, is referred to as a Master Agreement and they are collectively referred to as Master Agreements. The Master Agreements are functionally identical, except for various minor differences. NAPM LLC is referred to as the "Customer" in the Master Agreements, and NeuStar is referred to as the Contractor in the Master Agreements.

Pursuant to Section 4.2 of the Master Agreements, Contractor is required to enter into User Agreements with Users for the provision of Services (as defined in the Master Agreements). Section 4.2 of the Master Agreements also provides that the User Agreement shall be exactly in the form attached to the Master Agreements as Exhibit J.

It is my understanding that you represent several prospective Users who have refused to execute a User Agreement. Over the last several months, on behalf of NAPM LLC, I have discussed your clients' concern, and I believe that we have now agreed on a means of addressing those concerns so that your clients will execute User Agreements in the form proffered by the Contractor to your clients.

The specific terms of that agreement include commitments by the Contractor, including posting various statements on the NPAC/SMS website. Those specific terms are set forth on a Memorandum of Agreement, a copy of which is attached hereto and incorporated by reference.

Berenbaum, Weinshienk & Eason, P.C.

Mr. Michael Kurtis

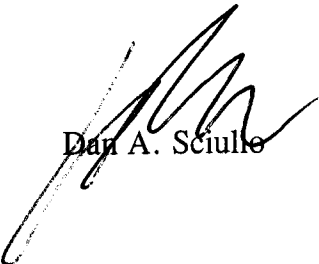
October 6, 2003

Page 2

As counsel for NAPM LLC, I hereby agree and acknowledge that it is my understanding, based upon your explicit statements to me, that your clients' agreement to execute User Agreements was conditioned upon implementation of the commitments set forth in the Memorandum of Agreement. Accordingly, I have advised my client, NAPM LLC, that in my view as counsel, NAPM LLC would be estopped from later asserting that your clients executed User Agreements without reliance on implementation of the commitment set forth in the Memorandum of Agreement.

Sincerely,

BERENBAUM, WEINSHIENK & EASON, P.C.


Dan A. Sciallo

cc: Mr. Richard Theiss

CERTIFICATE OF SERVICE

I, Ruth E. Garavalia, a secretary with the law firm of Kurtis & Associates, P.C., do hereby certify that I have this 4th day of December, 2003, had a copy of the foregoing "SUPPLEMENT TO REQUEST FOR WAIVER" sent to the following via U.S. First Class Mail, postage prepaid.

Ms. Cheryl Callahan, Deputy Chief
Telecommunications Access Policy Division
Wireline Competition Bureau
Federal Communications Commission
445 12th Street, S.W., Room 6-A331
Washington, D.C. 20554

Mr. Sanford Williams
Telecommunications Access Policy Division
Wireline Competition Bureau
Federal Communications Commission
445 12th Street, S.W., Room 6-A264
Washington, D.C. 20554

Alex Konde, Esquire
NeuStar, Inc.
46000 Center Oak Plaza
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Dan A. Sciallo, Esquire
Berenbaum, Weinshienk & Eason, P.C.
370 Seventeenth Street
Republic Plaza, Suite 4800
Denver, Colorado 80202-5626

/S/ Ruth E. Garavalia

Ruth E. Garavalia